



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

GK/KCB/DEL/SMF  
F. #2018R01401

*271 Cadman Plaza East  
Brooklyn, New York 11201*

November 8, 2024

By ECF

The Honorable Diane Gujarati  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Cherwitz, et al.  
Criminal Docket No. 23-146 (DG)

Dear Judge Gujarati:

The government writes in connection with the Court's order directing the parties to submit a joint request to charge the jury in the above-captioned case<sup>1</sup>: (1) attaching a single, joint document setting forth the requests on behalf the parties, and (2) seeking additional time to the defendants' objection, raised for the first time last night, to instructions regarding the current versions of 18 U.S.C. § 1594 and 18 U.S.C. § 1589, on the basis that the current versions of those statutes were not in effect during the full time period charged in the above-captioned indictment.

By way of background, on October 29, 2024, the government provided counsel for the defendants with its proposed jury instructions and requested that the defendants return the document with their comments specific to each charge and including any additional charges proposed by the defendants. Nearly a week later, on November 4, 2024, and having received no response from defense counsel concerning the instructions, the government asked for their positions so that the parties could seek to reach agreement where possible before the Friday, November 8 deadline. Counsel for the defendants indicated that they would endeavor to reply as soon as possible. On November 6, 2024, still having received no proposal from the defendants,

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<sup>1</sup> The Court's order provided that "[r]equests to charge must contain citations to supporting authority. The parties should endeavor to agree upon the requests to charge, to the extent possible, and must submit a single, joint document setting forth all agreed-upon requests to charge and, where no agreement is reached, each party's proposed charge and/or one party's proposed charge with an explanation of any other party's objection to that charge." ECF Dkt. No. 86.

the government again requested defense counsel provide its position on the instructions. Counsel for the defendants again replied that they would send them as soon as they could.

Last night, on November 7, 2024, at 8:30 p.m., defense counsel emailed the government two separate documents: its responses to the government's requests to charge in one document and another document containing alternate proposals by the defendants, and objecting to instructions referencing Sections 1594 and 1589 on purported Ex Post Facto grounds. The government has included its response to these objections in the attached document but seeks additional time to assess its position on this newly-raised issue, including whether an additional instruction regarding the jury's consideration of evidence from the 2006 through December 2008 timeframe would be appropriate. To ensure that the government has had an opportunity to fully consider the matter, the government respectfully requests that it be permitted to submit its position on that issue by separate letter on or before November 15, 2024.

Since receiving these documents last night, the government has endeavored to evaluate the defendants' requests, respond to those requests, and compile the single, joint document requested by the Court. Given the limited time, the government reserves the right to raise additional arguments where appropriate.

Respectfully submitted,

BREON PEACE  
United States Attorney

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